

### REMARKS

Claims 29-32, 34-39, 41, 44-47, 49 and 51-64 are pending in this application. Claims 29, 44, 55 and 59 have been amended. No new matter has been introduced.

Claims 29-32, 34-39, 41, 44-47, 49 and 51-64 stand rejected under 35 U.S.C. § 102 as being anticipated by Agarwal et al. (U.S. Patent No. 6,297,527) ("Agarwal"). This rejection is respectfully traversed.

The claimed invention relates to an electropolished patterned metal layer formed as part of a semiconductor device. As such, amended independent claim 29 recites a semiconductor device comprising *inter alia* "an insulating layer provided over said substrate" and "an electropolished patterned metal layer provided over said insulating layer, wherein said electropolished metal layer has a thickness of approximately 50 to 300 Angstroms." Amended independent claim 29 also recites that "a top surface of said electropolished metal layer is electropolished down to said insulating layer so that said top surface of said electropolished metal layer is below or at the same level with a top surface of said insulating layer."

Independent claim 36 recites a "memory cell" comprising *inter alia* "an electropolished patterned metal layer provided over a substrate, said electropolished metal layer having a thickness of approximately 50 to 300 Angstroms" and "a container capacitor including a lower electrode, said lower electrode having a surface aligned over said source/drain region, said electropolished patterned metal layer forming said lower electrode."

Amended independent claim 44 recites a "processor-based system" comprising *inter alia* "a container capacitor provided . . . comprising an electropolished patterned metal layer having a thickness of approximately 50 to 300 Angstroms."

Amended independent claim 44 also recites that “a top surface of said electropolished patterned metal layer is below or at the same level with a top surface of said insulating layer.”

Amended independent claim 55 recites a “container capacitor” comprising *inter alia* “a lower electrode provided within a first insulating layer, said lower electrode comprising an electropolished patterned metal layer having a bottom wall and vertical sidewalls extending upwardly therefrom.” Amended independent claim 55 further recites “a second insulating layer provided over said electropolished patterned metal layer and in contact with said first insulating layer” and “an upper electrode provided over said second insulating layer.”

Amended independent claim 59 recites a “container capacitor provided within an opening of an insulating layer” comprising *inter alia* “a barrier conductive layer provided at a bottom of said opening” and “a lower electrode provided over said barrier conductive layer . . . comprising an electropolished patterned metal layer.” Amended independent claim 59 also recites that the electropolished patterned metal layer has “a bottom and vertical sidewalls extending upwardly from said bottom, said lower electrode having a thickness of approximately 100 Angstroms.” Amended independent claim 59 further recites “a dielectric material provided over said electropolished patterned metal layer and in contact with said insulating layer” and “an upper electrode provided over said dielectric material.”

Agarwal relates to a “high dielectric constant capacitor having a multilayer lower electrode comprising at least two layers--a platinum layer and a platinum-rhodium layer--for use in a random access memory (RAM) cell.” (Abstract). According to Agarwal, “[t]he platinum layer of the lower electrode adjoins the capacitor dielectric, which is a ferroelectric or high dielectric constant dielectric such as BST, PZT, SBT or

tantalum pentoxide.” (Abstract). Agarwal also teaches that “[t]he platinum-rhodium layer serves as an oxidation barrier and may also act as an adhesion layer for preventing separation of the lower electrode from the substrate, thereby improving capacitor performance.” (Abstract).

Agarwal does not disclose, teach or suggest the subject matter of claims 29-32, 34-39, 41, 44-47, 49 and 51-64. Agarwal does not disclose “an electropolished patterned metal layer” or “electropolished patterned metal layers,” much less “an electropolished patterned metal layer” or “electropolished patterned metal layers” as part of capacitor structures, as in the claimed invention. Applicant reaffirms that the limitation “electropolished patterned metal layer” is simply not a product-by-process limitation, but rather a *resulting structure* having distinct and defined characteristics. The term “electropolished patterned” describes the physical characteristics of the metal layer in independent claims 29, 36, 44, 55, 59 and 60. Specifically, the term “electropolished patterned” is a limitation of the metal layer. Claim limitations which confer distinct and defined characteristics of a structure have been analyzed by the Federal Circuit in Hazani v. U.S. Int’l Trade Comm’n, for example. Hazani v. U.S. Int’l Trade Comm’n, 126 F.3d 1473, 44 USPQ2d 1358 (Fed. Cir. 1997).

In Hazani, the Federal Circuit specifically emphasized that the claims in question, which were directed to a memory cell comprising a conductive plate having a surface that was “chemically engraved,” were “pure product claims” and not product-by-process claims. In arriving at this conclusion, the Federal Circuit reasoned that “Hazani argues that the ‘chemically engraved’ claims are product-by-process claims. We agree with the respondents, however, that those claims are best characterized as pure product claims, since the ‘chemically engraved’ limitation, read in context, describes the product more by its structure than by the process used to obtain it.” Id. Accordingly, in view of Hazani, the limitation “electropolished patterned metal layer”

of independent claims 29, 36, 44, 55, 59 and 60 is a structural limitation and not a product-by-process limitation. An "electropolished patterned metal layer," like the "chemically engraved" plate of Hazani, is a *resulting structure* having distinct and defined characteristics and not a product formed by a particular process.

Applicant further notes that Agarwal does not disclose, teach or suggest that "a top surface of said electropolished metal layer is electropolished down to said insulating layer so that said top surface of said electropolished metal layer is below or at the same level with a top surface of said insulating layer" (claim 29) or that "a top surface of said electropolished patterned metal layer is below or at the same level with a top surface of said insulating layer" (claim 44). Agarwal is also silent about "a second insulating layer provided over said electropolished patterned metal layer and in contact with said first insulating layer" (claim 55) or about "a dielectric material provided over said electropolished patterned metal layer and in contact with said insulating layer" (claim 59). For at least these reasons, Agarwal fails to anticipate the subject matter of claims 29-32, 34-39, 41, 44-47, 49 and 51-64, and withdrawal of the rejection of these claims is respectfully requested.

Claims 29-32, 34-39, 41, 44-47, 49 and 51-64 stand rejected under 35 U.S.C. § 102 as being anticipated by Xing et al. (U.S. Patent No. 6,090,697) ("Xing"). This rejection is respectfully traversed.

Xing relates to a "high-selectivity via etching process" that "includes the steps of: forming an etchstop layer 840 of a material selected from the group consisting of Ti--Al, Ti--Al--N, Ta--Al, Al--N, Ti--Al/Ti--N, Ti--Al--N/Ti--N, Ta--Al/Ti--N, and Ti--Al/Ti--Al--N; forming a dielectric layer over the etchstop layer; and etching the dielectric layer with a fluorine-bearing etchant." (Abstract).

Xing fails to disclose the subject matter of claims 29-32, 34-39, 41, 44-47, 49 and 51-64. Xing does not disclose "an electropolished patterned metal layer" or "electropolished patterned metal layers," much less "an electropolished patterned metal layer" or "electropolished patterned metal layers" as part of capacitor structures, as in the claimed invention. As noted above, the limitation "electropolished patterned metal layer" of independent claims 29, 36, 44, 55, 59 and 60 is not a product-by-process limitation, but rather a *resulting structure* having distinct and defined characteristics.

Xing also fails to teach or suggest that "a top surface of said electropolished metal layer is electropolished down to said insulating layer so that said top surface of said electropolished metal layer is below or at the same level with a top surface of said insulating layer" (claim 29) or that "a top surface of said electropolished patterned metal layer is below or at the same level with a top surface of said insulating layer" (claim 44). Xing is also silent about "a second insulating layer provided over said electropolished patterned metal layer and in contact with said first insulating layer" (claim 55) or about "a dielectric material provided over said electropolished patterned metal layer and in contact with said insulating layer" (claim 59). For at least these reasons, Xing fails to anticipate the claimed invention, and withdrawal of the rejection of claims 29-32, 34-39, 41, 44-47, 49 and 51-64 is also respectfully requested.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Respectfully submitted,

By 

Thomas J. D'Amico

Registration No.: 28,371

Gabriela I. Coman

Registration No.: 50,515

DICKSTEIN SHAPIRO MORIN &  
OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 785-9700

Attorneys for Applicant